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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/755,702	01/05/2001	Violet Hanson	P-1015-27	3999

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EXAMINER
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PASCUA, JES F

ART UNIT	PAPER NUMBER
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3727

DATE MAILED: 01/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	Application N .	Applicant(s)	
	09/755,702	HANSON, VIOLET	
	Examiner	Art Unit	
	Jes F. Pascua	3727	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 05 November 2004.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 20-43 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 20-24, 26-31, 36-39 and 41-43 is/are rejected.
- 7) ☒ Claim(s) 25, 32-35 and 40 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |                                                                                                                        |                                                                                         |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                            | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____                                                |

## **DETAILED ACTION**

### ***Claim Objections***

1. Claim 35 is objected to because of the following informalities: "sealing blocks" as reinforcements for the handles of the bag is inconsistent with the language of the specification, which discloses the reinforcement for the handles as "ribs or sealing members". Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 20-43 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The specification fails to provide an adequate written description of how "said bottom part of said front face, said bottom part of said back face, and said bottom part of each gusset" is connected "without any overlapping with each other of said bottom part of said front face, said bottom part of said back face, and said bottom part of each gusset".

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

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The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 22 and 38 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 22, the functional recitation that "said overall width of said unfolded position of said gusset bag is greater than said width of each of said front face and said back face" is indefinite because it is not supported by recitation in the claim of sufficient structure to accomplish the function.

In claim 38, the recitation "said gussets are folded inwardly" and "said bottom folds inwardly" is inconsistent with the language of claim 20, which requires "said bottom formed...without overlapping".

### ***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 20, 22, 23, 26-31, 36, 37, 41 and 43 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Pardee '122.

As a note, the bag in Fig. 12 of Pardee '122 meets the structure of applicant's gusset bag in it's claimed "unfolded position". Furthermore, Pardee '122 discloses that it is known to reinforce the bottom parts of all the walls as shown in Figs. 7-9.

8. Claims 20, 21, 24, 38 and 39 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Kitao '964.

***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 20, 21, 2438, 39 and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boyd (Canadian Patent No. 2054309, previously cited) and Benoit '235.

Boyd discloses the claimed device except for the bottom parts of the front and back faces and the bottom parts of the gussets forming a flat bottom. Benoit '235 discloses that it is known in the art to remove the bottom opposite corners of an analogous bag to provide a flat bottom. It would have been obvious to one having ordinary skill in the art at the time the invention was made to remove the bottom opposite corners of Boyd, as taught by Benoit '235, in order to form a flat bottom on a gusseted bag.

As a note, removing the bottom opposite corners of Boyd, as discussed above, inherently meets the structure of applicant's gusset bag in its folded position.

***Allowable Subject Matter***

11. Claims 25, 32-35 and 40 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

12. The following is a statement of reasons for the indication of allowable subject matter:

The primary reason for the indication of allowable subject matter in claim 25 is the prior art of record does not anticipate or render obvious a gusset bag wherein the length of each bottom part of each side edge of the front and back faces are equal to the length of each first edge of each gusset **in combination with** "said bottom part of said front face, said bottom part of said back face, and said bottom part of each gusset" being connected "without any overlapping with each other of said bottom part of said front face, said bottom part of said back face, and said bottom part of each gusset".

The primary reason for the indication of allowable subject matter in claims 32-35 is the prior art of record does not anticipate or render obvious a gusset bag having a handle formed by providing a cut from a predetermined position below a top edge laterally towards and spaced from the central longitudinal axis of the front and back faces **in combination with** "said bottom part of said front face, said bottom part of said

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back face, and said bottom part of each gusset" being connected "without any overlapping with each other of said bottom part of said front face, said bottom part of said back face, and said bottom part of each gusset".

The primary reason for the indication of allowable subject matter in claim 40 is the prior art of record does not anticipate or render obvious a gusset bag wherein the pair of side edges of the front and back faces are heat reinforced **in combination with** "said bottom part of said front face, said bottom part of said back face, and said bottom part of each gusset" being connected "without any overlapping with each other of said bottom part of said front face, said bottom part of said back face, and said bottom part of each gusset".

### ***Response to Arguments***

13. Applicant's arguments with respect to claims 20-43 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

14. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within


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TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jes F. Pascua whose telephone number is 571-272-4546. The examiner can normally be reached on Mon.-Thurs..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee W. Young can be reached on 571-272-4549. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Jes F. Pascua  
Primary Examiner  
Art Unit 3727

JFP